

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 18, 2022

Lyle W. Cayce
Clerk

No. 21-51020
CONSOLIDATED WITH
No. 21-51029
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ALEX MANUEL GOMEZ-GODINEZ,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 4:21-CR-440-1
USDC No. 4:18-CR-240-1

Before KING, COSTA, and HO, *Circuit Judges.*

PER CURIAM:*

Alex Manuel Gomez-Godinez's appeal of the 21-month sentence of imprisonment imposed following his guilty plea conviction for illegal reentry

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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after removal from the United States has been consolidated with his appeal of the judgment revoking the term of supervised release he was serving at the time of the offense. Because his appellate brief does not address the revocation or the revocation sentence, he abandons any challenge to that judgment. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

Gomez-Godinez contends that the enhancement of his illegal reentry sentence pursuant to 8 U.S.C. § 1326(b) was unconstitutional because the fact of a prior conviction was not charged and proved to a jury beyond a reasonable doubt. He concedes that this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 226-27 (1998), but seeks to preserve the issue for further review. Accordingly, he has filed an unopposed motion for summary disposition.

We conclude that Gomez-Godinez's concession of foreclosure is correct, and summary disposition is appropriate. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019); *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the defendant-appellant's unopposed motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.